

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jesse Spieler-Jones	Team: Team # 5	CCRB Case #: 201004672	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/05/2010 4:20 PM	Location of Incident: Marcus Garvey Park	Precinct: 28	18 Mo. SOL 8/5/2011	EO SOL 8/5/2011	
Date/Time CV Reported Thu, 04/08/2010 3:50 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Thu, 04/08/2010 3:50 PM		
<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>			
<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>		
1. SGT John Tancredi	01061	924537	028 PCT		
<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>		
1. POF Jayme Petrillo	23157	942346	028 PCT		
2. POM Genry Cobos	01347	933701	028 PCT		
<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>			
A.SGT John Tancredi	Abuse: Sgt. John Tancredi drew his gun.				

### Case Summary

§ 87(2)(b) filed this complaint via mail; his letter was received by the CCRB on April 8, 2010 (encl. 4A-5L). On February 5, 2010, at approximately 4:20 p.m., in Marcus Garvey Park in Manhattan, Sgt. John Tancredi approached § 87(2)(b) and placed him under arrest for § 87(2)(b). The following allegations resulted:

- **Allegation A - Abuse of Authority:** Sgt. John Tancredi drew his gun. § 87(2)(g)

§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

### Results of Investigation

#### Civilian Statement

##### Complainant: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black male who is 5'11" tall, weighs 243 lbs and has black hair and brown eyes. § 87(2)(b)

§ 87(2)(b)

#### Testimony

§ 87(2)(b) made statements pertaining to this incident in filing his complaint with the CCRB using a CCRB complaint form that was filled out on March 26, 2010 (encl. 4A), in a letter to the CCRB that was written on March 26, 2010 (encl. 5A-L), and in a sworn statement that he provided while incarcerated at Rikers Correctional Facility on April 27, 2010 (encl. 7A-F).

On February 5, 2010, at a time reported by § 87(2)(b) to be 3:35 p.m. but determined by the investigation to be 4:20 p.m., § 87(2)(b) was walking through Marcus Garvey Park in Manhattan on his way to his residence, which is located at East 117<sup>th</sup> Street between 5<sup>th</sup> Avenue and Madison Avenue. § 87(2)(b) was not in possession of any narcotics at this time. As § 87(2)(b) approached the exit of the park at the intersection East 120<sup>th</sup> Street and 5<sup>th</sup> Avenue, he heard footsteps behind him. He then felt someone grab his right arm from behind and turn him around. § 87(2)(b) saw a white male in plainclothes, identified by the CCRB as Sgt. John Tancredi, holding a gun in his right hand. The gun was pointed toward the ground. Sgt. Tancredi identified himself as a police officer and presented his badge. Sgt. Tancredi asked § 87(2)(b) to provide identification. When § 87(2)(b) began to reach toward his wallet, which was in his back right pants pocket, Sgt. Tancredi told § 87(2)(b) not to move and then reached into his pocket and retrieved his wallet. After examining § 87(2)(b) identification, which included his prisoner ID card from a recent incarceration, Sgt. Tancredi returned § 87(2)(b) wallet to him. At some point – § 87(2)(b) was unsure exactly when – Sgt. Tancredi holstered his firearm.

Sgt. Tancredi asked § 87(2)(b) if he would mind being searched for weapons. § 87(2)(b) did not consent to the search and stated that he was cutting through the park on the way to his residence, which he indicated the direction of by pointing. Sgt. Tancredi then grabbed § 87(2)(b) book bag, put it on the ground, put his hands inside and began searching through it. Sgt. Tancredi also frisked § 87(2)(b) torso and legs. When Sgt. Tancredi touched § 87(2)(b) left outer coat pocket, which contained his phone, he reached into this pocket and removed the phone. Sgt. Tancredi asked § 87(2)(b) to remove his coat and § 87(2)(b) complied. Sgt. Tancredi subsequently frisked § 87(2)(b) coat again, searched his hat and then threw both of these items onto § 87(2)(b) book bag.

After escorting § 87(2)(b) to a stairwell that was approximately 20 feet away from the

location at which he had been stopped, Sgt. Tancredi handcuffed § 87(2)(b) who sat down. A wall between the stairwell and the location at which § 87(2)(b) was initially approached obstructed § 87(2)(b) view of his book bag. § 87(2)(e), § 87(2)(f)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Approximately 15 minutes later, a Hispanic male officer, identified by the CCRB as PO Genry Cobos, and a Hispanic female officer, identified by the CCRB as PO Jayme Petrillo, arrived on foot. After speaking briefly with these two officers, Sgt. Tancredi walked away behind the stairwell wall and out of sight. Shortly thereafter, Sgt. Tancredi returned with § 87(2)(b) hat, coat and book bag as well as a quantity of narcotics that was later revealed to § 87(2)(b) to be 53 glassines of heroin. The officers then took § 87(2)(b) to a black four-door sedan and drove him to the stationhouse.

#### **NYPD Statements:**

##### **Subject Officer: SGT. JOHN TANCREDI**

- *Sgt. Tancredi is a § 87(2)(b) -old white male who is 5'9" tall, weighs 180 lbs and has black hair and brown/hazel eyes.*
- *On the date of the incident, Sgt. Tancredi, who was the 28<sup>th</sup> Precinct anti-crime supervisor, worked in plainclothes in an unmarked vehicle with PO Petrillo and PO Cobos from 7:10 a.m. to 5:54 p.m.*

##### **Memo Book (encl. 8A-B)**

At 4:20 p.m., PO Petrillo made an arrest. At 4:40 p.m., Sgt. Tancredi arrived at the 28<sup>th</sup> Precinct stationhouse with the arrested individual, § 87(2)(b) who was charged with § 87(2)(b).

##### **Testimony**

Sgt. Tancredi was interviewed at the CCRB on September 8, 2010 (encl. 9A-C). On February 5, 2010, at approximately 3:45 p.m., Sgt. Tancredi was patrolling Marcus Garvey Park on foot with PO Petrillo and PO Cobos when he saw § 87(2)(b) pacing back and forth approximately 20 to 30 feet away. As the officers continued to walk toward § 87(2)(b) who continued to pace, Sgt. Tancredi observed that § 87(2)(b) had an object in his hand and suspected that he may be preparing to engage in a hand-to-hand narcotics transaction. When the officers were approximately five to ten feet away from § 87(2)(b) § 87(2)(b) noticed them, looked at them twice and then dropped the object in his hand as he began to walk away. As the officers continued to walk toward § 87(2)(b) Sgt. Tancredi observed that the object that § 87(2)(b) had dropped was a small plastic envelope, approximately two inches in length and 1.25 inches in width, with a white substance inside of it. Based on his past training and experience as a narcotics officer, Sgt. Tancredi recognized the substance inside this packet to be heroin. PO Petrillo said, "I got it," meaning that she would retrieve the heroin. As Sgt. Tancredi continued to pursue § 87(2)(b) PO Cobos and PO Petrillo spread out at an angle to prevent § 87(2)(b) from fleeing.

§ 87(2)(b) continued to walk away from Sgt. Tancredi, descended a small flight of stairs and picked up speed. As Sgt. Tancredi caught up to § 87(2)(b) he told § 87(2)(b) that he simply wished to ask a couple of questions. At this time, Sgt. Tancredi and § 87(2)(b) were approximately 20 to 30 feet from where the heroin had been discarded. PO Petrillo and PO Cobos were not in sight. During his interview, Sgt. Tancredi explained that, because § 87(2)(b)

§ 87(2)(b) is a large man and appeared to be agitated, he wished to refrain from attempting to arrest § 87(2)(b) without the assistance of POs Petrillo and Cobos. Sgt. Tancredi consequently decided to stall for time, § 87(2)(e), § 87(2)(f)

When POs Petrillo and Cobos caught up to Sgt. Tancredi, Sgt. Tancredi handcuffed § 87(2)(b). Although Sgt. Tancredi could not specifically recall whether or not he frisked or searched § 87(2)(b) before his partners arrived, he was certain that he did not frisk or search § 87(2)(b) until after he had already decided to place § 87(2)(b) under arrest. The officers then transported § 87(2)(b) to the stationhouse. Although Sgt. Tancredi recalled that additional bags of heroin were ultimately found in a mobile phone case in § 87(2)(b) possession, he could not recall where this case came from. During his interview, Sgt. Tancredi denied drawing his firearm at any point during the incident.

**Witness Officer: PO JAYME PETRILLO**

- *PO Petrillo is a § 87(2)(b)-old white female who is 5'0", weighs 120 lbs and has brown hair and brown eyes*
- *On the date of the incident, PO Petrillo, who was assigned to anti-crime, worked in plainclothes in an unmarked vehicle with Sgt. Tancredi and PO Cobos from 8:00 a.m. to 4:35 p.m.*

**Memo Book (encl. (16A-B))**

At 4:20 p.m., PO Petrillo arrested § 87(2)(b) at West 120<sup>th</sup> Street and 5<sup>th</sup> Avenue in Manhattan. At 5:30 p.m., PO Petrillo prepared the online booking sheet. From 10:00 p.m. to 11:50 p.m., she processed § 87(2)(b) arrest. At 11:50 p.m., she released property belonging to § 87(2)(b) into the custody of § 87(2)(b). § 87(2)(b) consented to this by signing PO Petrillo's memo book.

**UF-61, OLBS and Criminal Court Complaint (encl. 11A-13A)**

These documents, which were prepared by PO Petrillo, indicate that on February 5, 2010, at approximately 4:20 p.m., at the northwest corner of 5<sup>th</sup> Avenue and West 120<sup>th</sup> Street in Manhattan, PO Petrillo observed § 87(2)(b) drop a small object to the ground. When PO Petrillo recovered this object from the location at which § 87(2)(b) had dropped it, the object was determined to be one glassine of heroin. PO Petrillo was subsequently informed by Sgt. Tancredi that 52 glassines of heroin had been recovered from a small pouch that had been inside § 87(2)(b) jacket pocket. § 87(2)(b) was charged with § 87(2)(b).

**Testimony**

PO Petrillo made statements pertaining to this incident during her in-person interview at the CCRB on November 18, 2010 (encl. 14A-C). PO Petrillo contacted the investigator via telephone on November 19, 2010 and volunteered additional information (encl. 15A) § 87(2)(g)

Although PO Petrillo stated during her interview that her partners at the time of the incident were Sgt. Tancredi and PO Wilson, she called the undersigned the day after her interview and stated that, after her CCRB interview had concluded, she had recalled that the officer who was partnered with her and Sgt. Tancredi during the incident was PO Genry Cobos, not PO Wilson. PO Petrillo explained that she frequently works with PO Wilson and explicitly confirmed that all of the actions she attributed to PO Wilson during her interview were in fact taken by PO Cobos.

PO Petrillo estimated that the officers were approximately 30 to 35 feet from § 87(2)(b) when he dropped the object and began to walk away. When PO Petrillo reached the object, she picked it up, examined it and identified it as a glassine of heroin. As § 87(2)(b) had by this time moved out of her view, PO Petrillo continued to walk in the direction in which she had observed § 87(2)(b) moving in the hopes of catching up with him and Sgt. Tancredi. When PO Petrillo next saw § 87(2)(b) he was with Sgt. Tancredi on a set of stairs. PO Petrillo approached Sgt. Tancredi, held up the glassine of heroin and nodded to indicate that it was heroin. § 87(2)(b) was then handcuffed.

PO Petrillo never saw Sgt. Tancredi draw his firearm. She never saw § 87(2)(b) being frisked or searched before he was placed under arrest. During her interview, PO Petrillo noted that Marcus Garvey Park is a drug-prone location at which narcotics are typically packaged in glassines.

**Witness Officer: PO GENRY COBOS**

- *PO Cobos is a § 87(2)(b)-old Hispanic male who is 5'9" tall, weighs 210 lbs and has black hair and brown eyes.*
- *On the date of the incident, PO Cobos, who was assigned to anti-crime, worked in plainclothes in an unmarked vehicle with Sgt. Tancredi and PO Petrillo from 8:00 a.m. to 1:05 a.m. the following day.*

**Memo Book (encl. 16A-B)**

PO Cobos did not have any memo book entries pertaining to this incident.

**Testimony**

PO Cobos, who was interviewed at the CCRB on December 29, 2011 (encl. 17A-B), had no recollection of the incident.

**NYPD Documents**

28<sup>th</sup> Precinct Command Log (encl. 20A)

§ 87(2)(b) arrived at the stationhouse at 4:30 p.m.

Property Voucher § 87(2)(b) (encl. 19A-B)

The following arrest evidence was vouchered: a glassine of alleged heroin that was recovered from the ground where § 87(2)(b) dropped it; 52 glassines of alleged heroin, which were recovered from the inside of a green camouflage phone case during a search incident to lawful arrest; said green camouflage phone case, which was recovered from the inside of § 87(2)(b) right jacket pocket.

**Arrest for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]

**Status of Civil Proceedings (encl. 24A)**

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of January 28, 2011 with regard to the incident.

**Civilian Criminal History (encl. 23A-G)**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

#### **Civilian CCRB History (encl. 3A)**

- This is the first CCRB complaint filed by [§ 87(2)(b)]

#### **Subject Officer CCRB History (encl. 2A-B)**

- Sgt. John Tancredi has been a member of the service for 11 years and there is one substantiated CCRB allegations against him: in case 200912901, an allegation that Sgt. Tancredi refused to provide his name and shield number was substantiated and received charges in regards. As of February 25, 2011, there is no record of the dispositions of these charges.

#### **Conclusion**

##### **Identification of Subject Officer**

- [§ 87(2)(b)] alleged that he was initially approached by a white male in plainclothes who had his firearm drawn (Allegation A). Sgt. Tancredi, who by all accounts was the only white male present during the incident, confirmed that he was the officer who initially approached [§ 87(2)(b)] [§ 87(2)(g)]

#### **Investigative Findings and Recommendations**

##### **Allegations Not Pleaded**

[§ 87(2)(g)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

##### **Allegation A - Abuse of Authority: Sgt. John Tancredi drew his gun.**

[§ 87(2)(b)] alleged that Sgt. Tancredi approached him with his firearm drawn and pointed at the ground. Sgt. Tancredi denied drawing his firearm at any time. In *Police Dept. v. Gliner* (encl. 1A-E), Administrative Law Judge Ray Fleischhacker noted that an officer is allowed to draw his firearm whenever he has a “reasonable fear” for his safety. Judge Fleischhacker further noted that officers have “broad discretion” to draw their firearms when they feel that their lives are in danger. At the time that Sgt. Tancredi allegedly drew his firearm, he was preparing to effect the arrest of a large individual who had just been observed committing a felony in a public space late at night and was uncertain of the whereabouts of his partners. Sgt. Tancredi testified that his concern for his safety was in fact so great that he waited for POs Petrillo and Cobos to arrive before placing [§ 87(2)(b)] under arrest. [§ 87(2)(g)]

Team: \_\_\_\_\_

:

Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Supervisor: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date